

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

IVY CAPITAL, INC., et al.,

Defendants.

2:11-CV-283 JCM (GWF)

ORDER

Presently before the court is plaintiff Federal Trade Commission's ("FTC") motion for leave to file excess pages. (Doc. # 322). Defendants filed an opposition. (Doc. # 324). Both parties then colluded and filed a stipulation seeking to circumvent the thirty page limitation imposed by local rule 7-4, withdrawing defendants' opposition to plaintiff's motion seeking leave to file excess pages, and to allow defendants a sixty day extension to respond to plaintiff's motion for summary judgment.

Local rule 7-4 states that "motions shall be limited to thirty (30) pages including the motion but excluding the exhibits." Local rule 7-4 continues by stating in relevant part "[w]here the court enters an order permitting a longer brief or points of authorities" Clearly, the rule requires that a party must seek leave of the court prior to filing a motion in excess of thirty pages *and* the court must enter an order granting the motion *before* the moving party may file the excessively lengthy motion.

FTC filed its summary judgment motion contemporaneously with its motion for leave to file excess pages. (*See* docs. # 322-23). FTC's summary judgment is approximately 130 pages—a full 100 pages in excess of the limits imposed by local rule 7-4. Further, the summary judgment includes

1 a total of 270 attachments for a combined total of 6,311 pages.

2 The court finds that the FTC knew in the very early stages of drafting its summary judgment
3 motion that the actual motion would well exceed the limitations of the local rule. FTC should have
4 filed the motion for leave to file excess pages during these early stages of preparing the summary
5 judgment motion. Instead, FTC waited to file the motion for leave to file excess pages in
6 conjunction with the summary judgment motion, thereby never really seeking leave of the court to
7 file excess pages. Additionally, the very fact that the FTC requires a full 6,311 pages in an attempt
8 to prove that no genuine issue of material fact exists strongly indicates that many genuine issues of
9 material fact likely exist. This gamesmanship undercuts the court's authority under local rule 7-4
10 and the court therefore strikes FTC's motion for summary judgment in its entirety.

11 Should FTC elect not to re-file a summary judgment that comports with local rules, the court
12 grants FTC fourteen days leave to file a response to the pending motion for summary judgment filed
13 by defendant (doc. # 312).

14 Accordingly,

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion seeking
16 leave to file excess pages (doc. # 322) be, and the same hereby is, DENIED.

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for
18 summary judgment (doc. # 323) be, and the same hereby is, STRICKEN.

19 DATED September 21, 2012.

20
21 
22 **UNITED STATES DISTRICT JUDGE**